THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.30244 OF 1997

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DATED: 18-04-2006

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BETWEEN

Mohd. Osman,

S/o. Shaik Fareed,

R/o.H.No.8-1-91/1,

Bodhan Road,

Nizamabad District

and others.

...PETITIONERS

AND

The Government of Andhra Pradesh,

Rep. by its Secretary, R&B Department,

Secretariat, Hyderabad and others.

...RESPODNENTS

ORDER:

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Petitioners seek a Writ of Mandamus to direct the respondents not to take any steps for demolition of their properties viz.

Petitioner No.1:Owner of Hotel Mulgi bearing No.8-1-17 and owner of H.No.8-1-19 consisting of 5 mulgies on ground floor and 1st floor is residential.

Petitioner No.2:Owner of House bearing No.8-1-19/1 consisting of 5 mulgies on ground floor and 1st floor is residential house.

Petitioner No.3:Owner of House bearing No.8-1-18 consisting of

5 mulgies on ground floor and 1st floor is residential portion.

Petitioner No.4:Owner of House bearing No.8-1-18/1 consisting of

3 mulgies on ground floor and 1st floor is residential house.

without following due procedure under law by declaring the action of the respondents in taking the ground of road widening without following any procedure under law, without notice, without conducting any negotiations with the owners of the property as illegal and arbitrary.

Learned counsel for the petitioners submits that the petitioners are the owners of the aforementioned properties respectively situated near Nehru Park, Bodhan Road, Nizamabad District and they have not encroached any road margins and have constructed the mulgies as per the sanctioned plan. While so, the respondents on the ground of road widening are seeking to demolish their properties.

Learned counsel for the seventh respondent submits that the petitioners have not obtained any sanction plan or permission and
in fact, they have encroached road margins and made illegal constructions.

The only grievance of the petitioners is that the respondents without issuing any notice, without following due procedure under law, without conducting any negotiations and without invoking the provisions of the Land Acquisition Act, are taking steps to demolish their residential houses, which action is utter violation of principles of natural justice.

If any portion of the properties of the petitioners is required for road widening the respondents are required to follow due process of law either by way of private negotiations or by initiating proceedings under the Land Acquisition Act either for acquiring the said land or for demolishing the illegal constructions. But without following due process of law the respondents cannot take any coercive steps.

Having regard to the facts and circumstances of the case,

the writ petition is disposed of directing the respondents not to demolish the structures or take away any portion of the properties of the petitioners and not to dispossess them without following due process of law.

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V. ESWARAIAH, J

April 18, 2006

DSK